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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,477	03/26/2004	Carl R. Nicolai	0644-031015	8871

7590 03/02/2006
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Pittsburgh, PA 15219-1818

EXAMINER

RAMIREZ, RAMON O

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/811,477	Applicant(s) NICOLIA ET AL.	
	Examiner RAMON O. RAMIREZ	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

This is the second Office Action corresponding to communication filed Feb 9, 2006. The application contains 21 claims. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The drawings filed Feb 9, 2006 are accepted by the examiner.

Claim Rejections - 35 USC § 103

Claims 1, 2, and 4-14, and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Labor ServerTM illustration (from now on referring as the illustration) in view of Garcia (2004/0222179A1).

The illustration shows a frame having two uprights connected by cross bars at each of their ends, and a vertical adjusted support member having a hole for receiving an arm fixture.

Garcia discloses a frame having two uprights (14b, 14c) connected by cross bars (14a, 16a) which are horizontally adjustable to adjust the distance between the uprights.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the cross bars shown by the illustration horizontally adjustable as shown by Garcia to adjust the distance between the uprights to make the

device more versatile. The adjusting means claimed here are considered to be mechanical equivalent to the one shown by Garcia, and consequently the use of one over the others is considered as an obvious matter of expediency. With respect to the support member, the specific use of fastening means, the use of threads on the opening are also considered as matter of engineering choice. These means are well known and widely use for those skilled in the art. As to the method claim the device set forth above can be used following the recited method steps.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Labor ServerTM illustration in view of Garcia and Vrane (Pat No 6,803,521).

The patent to Vrane discloses the use of calibrated markings use to facilitate the aligned of two adjusting members. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the invention set forth above with calibrated markings as shown by Vrane to facilitate the alignment of the upright members.

Allowable Subject Matter

Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed Feb 9, 2006 have been fully considered but they are not persuasive. Applicant argues that the Labor Server Illustration presented by the examiner cannot be adjustable since it to be welded in a fixed position. The examiner disagrees since the Labor Server Illustration can be adjustable to a desired position (when combined with the teachings of Garcia), and then it can be welded at that desired position. With respect to claim 15, that claim was indicated as objected to in the former Office Action, it was erroneously included in the 103 rejection of the other claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (571)

272-6821. The examiner can normally be reached on MONDAY-FRIDAY, IST
FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT OLSZEWSKI can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RAMON O. RAMIREZ
Primary Examiner
Art Unit 3632

ROR
February 27, 2006